

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CHARLES BLAKE,

Plaintiff,

-v.-

THE CITY OF NEW YORK, et al.,

Defendants.

21 Civ. 188 (JHR)

ORDER

JENNIFER H. REARDEN, District Judge:

WHEREAS, on November 21, 2022, Plaintiff moved unopposed (ECF No. 47) to compel non-party Cohen’s Fashion Optical (“Cohen’s”) to respond to Plaintiff’s October 1, 2022 subpoena pursuant to Federal Rule of Civil Procedure 45(d)(2)(B)(i), or, in the alternative, to hold Cohen’s in contempt of court for failure to comply with the subpoena, and for an order requiring Cohen’s to pay the costs of the motion;

WHEREAS, on December 2, 2022, the Court ordered (“Order”) (ECF No. 48) that Cohen’s respond to the motion or respond to the subpoena, by no later than two weeks after Plaintiff had effected service of the Order, and that failure to do so would result in the Court granting Plaintiff’s motion to compel;

WHEREAS, the Court directed Plaintiff to personally serve the Order on Cohen’s and promptly file proof of service on the docket;

WHEREAS, Plaintiff filed an affidavit of service (ECF No. 49) attesting to personal service of the Order on Cohen’s on December 14, 2022, in addition to an affidavit of service attesting to the personal service of a “letter-motion” on December 21, 2022 (ECF No. 50);

WHEREAS, Cohen’s has failed to respond to the motion or Plaintiff’s subpoena;

IT IS HEREBY ORDERED that Plaintiff's motion to compel compliance with the October 1, 2022 subpoena is GRANTED;

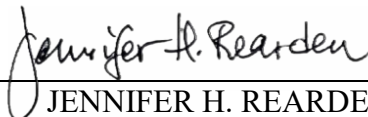
IT IS FURTHER ORDERED that, insofar as Plaintiff's motion requests that the Court hold Cohen's in contempt and order Cohen's to pay Plaintiff's fees, the motion is DENIED without prejudice to renew should Cohen's fail to comply with this Order by the deadline set forth herein;

IT IS FURTHER ORDERED that if Cohen's does not comply with Plaintiff's subpoena or this related Order without adequate excuse within 30 days of service of this Order, the Court may hold Cohen's in contempt pursuant to Federal Rule of Civil Procedure 45(g), which may result in financial penalties.

Plaintiff is directed to personally serve a copy of this Order on Cohen's. In addition, Plaintiff shall serve Cohen's with a copy of this Order, as well as Plaintiff's motion and Plaintiff's October 1, 2022 subpoena, via first class mail. Plaintiff shall promptly file proof of service on the docket. The Clerk of Court is directed to terminate ECF No. 47.

SO ORDERED.

Dated: January 26, 2023  
New York, New York

  
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JENNIFER H. REARDEN  
United States District Judge